August 31, 2006

In the Matter of the Establishment of
A Universal Service Fund Pursuant to
Section 12 of the Electric Discount and Energy
Competition Act of 1999

BPU Docket No. EX00020091

Hon. Kristi Izzo, Secretary
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102

Dear Secretary Izzo:

Please accept this filing on behalf of AARP New Jersey concerning the USF Program Evaluation Report and Staff Recommendations for USF Program Changes.

I have sent a copy of this filing by U.S. Mail to the service list in this docket and sent an electronic version of these comments to the individuals who have been participating in the Board's USF Implementation Working Group.

Sincerely,

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AARP New Jersey

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BEFORE THE BOARD OF PUBLIC UTILITIES

In the Matter of the Establishment of
A Universal Service Fund Pursuant to
Section 12 of the Electric Discount and Energy
Competition Act of 1999

BPU Docket No. EX00020091

COMMENTS SUBMITTED BY:

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ON BEHALF OF

AARP NEW JERSEY

August 31, 2006

EXECUTIVE SUMMARY

The purpose of these Comments is to respond to the USF Program Evaluation Report dated April 2006 and the Staff Straw Recommendations for Changes to the USF Program, both of which were approved for release by the Board at its Open Meeting on June 7, 2006 and released to the public on June 14, 2006. The USF program for low income gas and electricity customers of New Jersey's electric and gas utilities is one of the most successful programs of its type in the country.

While it is reasonable to carefully monitor program spending in light of other impacts on customer energy bills in New Jersey, it is also reasonable to allow for increased USF program costs to account for rising prices incurred by New Jersey electric and natural gas customers. Any other result would be a failure to meet the statutory obligation to assure "affordable energy" and increase the potential for severe health and safety impacts on low income families. As we know from national and New Jersey-specific surveys, when families cannot afford to pay for the necessities of life, they will often choose to pay the electric or heating bill instead of necessary medications, shelter, and food. As stated by the Board in its original USF Order, the purpose of the USF program is to "ensure that low-income customers have access to affordable energy under ECECA." [3/20/03 Order at 3] AARP supports the continuation of the USF program with the same overall design as set forth in the Board's original 2003 Order. Any changes to the USF program (as reflected in the Staff Recommendations or those of other parties) should be viewed through the lens of the impact of the proposed change on furthering the goals and objectives of the USF program, as well as the ability of the proposal to make the program more cost effective in improving participants' ability to obtain and maintain essential electricity and natural gas service.

AARP proposes the following recommendations for action by the Board in the context of its review of the USF program:

I. THE BOARD SHOULD ORDER THAT LIFELINE CUSTOMERS BE SCREENED FOR ELIGIBILITY IN THE USF PROGRAM IN THE SAME MANNER AS DONE IN OCTOBER 2003

- When the Board issued its Order establishing the USF program in March 2003, it stated that low income customers with household income at or below 175% of federal poverty would be eligible for the program, and "LIHEAP and Lifeline recipients will be automatically screened for USF eligibility." [Ordering Paragraph 5] While the Board stated its preference for a one-stop application process, it acknowledged that this was a "…long term goal and staff will work with the other state agencies towards this objective." [Ordering Paragraph 6] Because the one-stop application process was not yet in place, the Board ordered "the work group will develop a process whereby potential USF recipients would also be qualified for LIHEAP and Lifeline programs, if eligible, concurrently with their application for USF." [Ordering Paragraph 7]

- While the Lifeline data base was used to screen Lifeline clients for eligibility for USF was done in October 2003, no screening for enrollment of Lifeline participants has occurred since that time. AARP New Jersey proposes that all Lifeline clients whose household income (as defined in the Lifeline program rules) is at or below 175% of federal poverty be screened for participation in the USF program each fall, in the same manner as was done in October 2003. This will allow those current Lifeline "only" customers who are currently grandfathered in the USF program to be dropped in the normal course if they are no longer eligible for USF, as well as allow for enrollment in USF for those who have become eligible since October 2003. With the significant increases in energy prices since 2003, it is highly likely that many low income seniors are suffering unaffordable electric and natural gas bills and making unsafe and potentially tragic choices concerning their medications and food or other necessities to make utility bill.

- While the unification of various state low income program databases is a legitimate goal that AARP supports, three years have passed since the adoption of the Board's original USF order and its statement of the Board's "long term goal" of one-stop shopping. Unfortunately, no significant progress has been made in this direction. It is neither fair nor appropriate for New Jersey's low income elderly households to be eliminated from participation in the USF program by a refusal to conduct a new enrollment matching of the Lifeline database with the USF program eligibility formula. AARP stands ready to support any prompt effort to implement a screening for current Lifeline recipients similar to that done in October 2003. A prompt implementation of this recommendation will allow any current USF Lifeline only recipient no longer eligible for USF to be dropped from the program and allow newly eligible Lifeline recipients to be enrolled in this vital program. The alternative will put New Jersey's low income elderly households at grave risk of disconnection of essential electric and natural gas service or force such households to make unhealthy and dangerous choices concerning payment for their medications and food, all of which carry potentially fatal health consequences and fail to conform to the Board's stated purpose of USF to assure affordable energy. Low income seniors that must spend over 6% of their income for their combined electric and gas service should not have to choose between heating and eating or other unacceptable choices.

II. THE BOARD SHOULD ORDER THAT THE USF PROGRAM INCLUDE A LEVELIZED BILLING REQUIREMENT

- The Apprise USF Evaluation Report clearly demonstrated that the actual monthly bills of USF customers do not necessarily reflect the overall intent of assuring affordability of electricity and natural gas service. This is due to the fact that while the USF benefit is calculated based on annual household income and annual estimated usage and then provided to the customer in the form of a fixed monthly bill credit, the customer's actual monthly bill reflects the seasonal swings in usage as well as the application of the LIHEAP and Lifeline benefits in one lump sum. As a result, the USF customer may face a bill of zero in some months and an unaffordable bill that significant exceeds 3% (or a combined gas and electric bill that exceeds 6%) of income for one or two utility services. This "lumpiness" in actual customer payment obligation fails to send the proper signal to the customer to pay a regular amount each month to retain service, avoid collection activities, and (assuming eligibility) earn the Fresh Start arrears forgiveness award. This result also threatens the ability of ratepayers to capture the benefits of the USF program in reduced credit and collection costs associated with affordable monthly gas and electric bills.

- AARP urges the Board to state that its intent and policy is to structure a levelized or budget payment plan for USF customers that reflects the customer's estimated annual usage, the receipt of applicable LIHEAP and Lifeline funds, and the application of the USF monthly credit. Such an approach will provide the USF customer with a relatively stable monthly payment obligation and make it far more likely that over the course of the program year, regular payments will be made and collection crises avoided.

III. THE BOARD SHOULD ORDER THE UTILITIES TO COLLECT AND PROVIDE AND NECESSARY DATA TO PERFORM A PROPER "NET COST" ANALYSIS

- The Board's original USF Order issued in 2003 and subsequent orders clearly required that the USF program be evaluated based on a variety of credit and collection criteria to determine the impact of the program on USF customer ability to pay and maintain energy services and to compare the results of the USF customers with residential customer credit and collection experiences as a whole. While the Apprise Evaluation Report is generally acceptable overall, the most significant defect is the failure to provide appropriate or detailed information to determine the "net" costs of the USF program. Apprise was unable to obtain a database from all the utilities that would allow a comparison in payment and collection activities by USF participants both pre-USF enrollment and post-USF enrollment or allow the comparison of USF participants with credit and collection experiences for residential customers generally.

- AARP recommends that the Board find that the Apprise Evaluation Report could not provide the intended evaluation of costs and benefits of the USF program due to the failure of the utilities to provide the necessary historical data for USF participants. AARP offers no comments on what actions the Board may wish to explore with respect to the failure of the largest electric and gas utilities to provide this data when the Board's orders had clearly contemplated the existence and provision of such data in designing the data collection protocols and evaluation process itself. However, AARP does recommend that the Board order the utilities to immediately undertake the necessary steps to collect the appropriate data and provide it next year for the required evaluation process.

IV. THE BOARD SHOULD NOT ELIMINATE THE FRESH START PROGRAM, BUT SHOULD ASK THE USF WORKING GROUP TO CONSIDER POSSIBLE CHANGES TO THE CURRENT ARREARS FORGIVENESS PROGRAM TO REDUCE ITS COSTS

- The Staff Recommendations seek to eliminate the Fresh Start program. AARP disagrees with this approach. The Fresh Start program was a consensus recommendation of the USF Working Group after the Board ordered the Working Group to devise such a program. At the time of the design of the Fresh Start program, several utilities indicated that they were unable to make the necessary changes to their billing systems to allow them to keep track of a separate payment plan for USF customer arrears, such as the traditional utility arrears forgiveness program in which the customer is asked to make a monthly payment of a relatively modest amount in return for a utility forgiveness of a portion of the arrears over a period of time.

- Based on the utility filings for the forthcoming program year, it appears that a reasonable estimate of the cost of the Fresh Start program going forward is $6 million (and not the $12 million proposed by the utility filing).

- AARP recommends that the Board not eliminate this feature of the energy affordability program because it is likely that USF customers will continue to fail to make regular monthly payments and retain their essential electricity and natural gas service without some attention to arrears balances brought into the program. If the Board is determined to review the program design of Fresh Start, it should ask the Working Group to review and make recommendations concerning this program on a going forward basis.

V. THE BOARD SHOULD ELIMINATE OR SIGNIFICANTLY INCREASE THE $1800 CAP ON USF BENEFITS

- The Board's 2003 Order establishing the USF program stated that USF benefits should be capped at $1800. This order appears to be a misunderstanding of the Staff Recommendation for a Permanent USF Program that was the basis for the Board's USF Order. The Staff had recommended that the "energy burden" be capped at $1800 for the purposes of calculating USF benefits and not the USF benefit itself. Nonetheless, the Board's decision to impose an $1800 cap on total USF benefits has been implemented as ordered. This program design feature should be eliminated, particularly in light of rising energy prices and the impact this cap has had on the ability of a significant number of USF participants to receive affordable bills.

INTRODUCTION

The purpose of these Comments is to respond to the USF Program Evaluation Report dated April 2006 and the Staff Straw Recommendations for Changes to the USF Program, both of which were approved for release by the Board at its Open Meeting on June 7, 2006 and released to the public on June 14, 2006. The USF program for low income gas and electricity customers of New Jersey's electric and gas utilities is one of the most successful programs of its type in the country. Within months of the Board's order establishing the program and its program design in March 2003, all of the New Jersey LIHEAP and Lifeline participants were screened for participation in the program and automatically enrolled. By early 2004, approximately 115,000 households were enrolled in the program. The USF program targets energy assistance benefits to those customers whose energy burden is more than twice that of median income New Jersey families.[1] The formula for USF benefits requires customers with income at or below 175% of federal poverty guidelines to pay 3% of their household income for electricity and 3% of their income for natural gas (or 6% for electricity when the customer heats with electricity). Only those customers with actual energy bills that exceed the 3% of income payment obligation receive a USF benefit in the form of a fixed monthly credit on their natural gas or electricity bill (or both where applicable). As a result, this program delivers monthly bill payment assistance to those who have the greatest disparity between their ability to pay the monthly electricity and home heating bill and the actual bill they must pay to avoid the tragedy of disconnection, increased credit and collection costs, and bad debt or write offs that contribute to higher rates paid by all customers.

The Board established the USF pursuant to statutory directive in the New Jersey Electric Discount and Energy Competition Act (EDECA) enacted in 1999. The Act mandated the creation of the non-

[1] Even though energy prices and bills have risen for all New Jerseyans, the median household income in New Jersey has also increased. The 2005 median household income for New Jersey was $75,311 as calculated by the U.S. Bureau of Census [http://www.census.gov/hhes/www/income/medincsizeandstate.html] Based on the average 2005 cost of home energy ($1800), the energy burden for a family with the median household income is 2.4%. See also the profile of New Jersey's Home Energy Affordability Gap in "On the Brink: 2005" by Fisher, Sheehan and Colton, available at www:fsconline.com .

lapsing fund to be known as the Universal Service Fund and delegated to the Board the level of funding, the proper administration of the fund and the purpose and programs to be funded with monies from the fund, which social programs should be provided by an electric public utility as part of the public benefit programs, and "…whether the funds appropriate to fund the Lifeline Credit Program, the Tenants Lifeline Assistance Program, the funds received pursuant to the Low Income Home Energy Assistance Program, and funds collected by electric and natural gas utilities, as authorized by the Board, to off-set uncollectible electricity and natural gas bills should be deposited in the fund, and whether new charges should be imposed to fund new or expanded programs." The intent of the New Jersey Legislature was to grant sufficient authority to the Board to create, fund, and implement low income energy assistance programs for New Jersey's electric and natural gas utility low income customers.

In early 2004, President Fox's presentation on how New Jersey was coping with high natural gas prices correctly emphasized the scope of New Jersey's low income assistance programs and that New Jersey ratepayers were funding the Universal Service Program and the Lifeline program, both of which provided low income electric and natural gas customers with benefits that are intended to create affordable gas and electric utility service. With respect to the USF program, President Fox reported that $78 million in USF benefits were provided to New Jersey's "most vulnerable citizens" in its first year and over 65% of those enrolled in the program had paid their bills (the amount in excess of the USF credit) in full for the first six months.

With respect to the Lifeline program, President Fox correctly indicated that this program provided a maximum benefit of $225/year to low income seniors (65 years and older) who participated in PAAD (the low income discount drug program) or who receive Social Security Disability benefits and that 314,000 enrollees had received $70 million in Lifeline benefits in 2003. When describing why New Jersey had provided this and other financial assistance for low income electric and natural gas customers, President Fox listed: "help people in need; reduce safety hazards; decrease collection expenses; induce more payment from customers; and ratepayers already pay for uncollectibles."

Since the adoption of the USF program, electricity and natural gas prices have increased dramatically. In December 2005, the Board approved an average 25% increase in total natural gas bills for residential customers. Electricity prices have increased every year due to rising wholesale market prices for electricity relied upon by the Board in its annual Basic Generation Supply auction. This has naturally increased the cost of the USF program benefits provided to participating customers. When low income household incomes do not significantly increase, but annual electricity and natural gas bills do increase, there is a natural disparity between the household income and the annual utility bill that results in a higher USF credit under the combined 6% of income payment requirement for gas and electricity used to calculate USF benefits. As a result, the USF program "naturally" reflects the increased needs of low income customers in an era of rising and more volatile electricity and natural gas costs. This is a feature of the program that should be retained and not tampered with in the Board's review and consideration of program design changes. AARP would also point out that the rising electricity and natural gas prices have resulted in higher revenues accruing to the electric and natural gas utilities, thus spreading the costs of the USF program over a wide revenue pool of kWh and therms.

While it is reasonable to carefully monitor program spending in light of other impacts on customer energy bills in New Jersey, it is also reasonable to allow for increased USF program costs to account for rising prices incurred by New Jersey electric and natural gas customers. Any other result would be a failure to meet the statutory obligation to assure "affordable energy" and increase the potential for severe health and safety impacts on low income families. As we know from national and New Jersey-specific surveys, when families cannot afford to pay for the necessities of life, they will often choose to pay the electric or heating bill instead of necessary medications, shelter, and food.[2]

As stated by the Board in its original USF Order, the purpose of the USF program is to “ensure that low-income customers have access to affordable energy under ECECA.” [3/20/03 Order at 3] AARP supports the continuation of the USF program with the same overall design as set forth in the Board’s original 2003 Order. Any changes to the USF program (as reflected in the Staff Recommendations or those of other parties) should be viewed through the lens of the impact of the proposed change on furthering the goals and objectives of the USF program, as well as the ability of the proposal to make the program more cost effective in improving participants’ ability to obtain and maintain essential electricity and natural gas service.

[2] The USF Evaluation Report documents the hard choices and the potential safety and health consequences of being poor with high energy bills. The annual average income of USF participants is $12,000. Even though USF program participation has reduced “energy insecurity actions” compared to other low income households nationally and in the Northeast, still 53% of USF recipients reported that they had reduced expenditures for basic household necessities to pay their utility bills. Evaluation Report at 105.

THE BOARD SHOULD ORDER THAT LIFELINE CUSTOMERS BE SCREENED FOR ELIGIBILITY IN THE USF PROGRAM IN THE SAME MANNER AS DONE IN OCTOBER 2003

When the Board issued its Order establishing the USF program in March 2003, it stated that low income customers with household income at or below 175% of federal poverty would be eligible for the program, and "LIHEAP and Lifeline recipients will be automatically screened for USF eligibility." [Ordering Paragraph 5] While the Board stated its preference for a one-stop application process, it acknowledged that this was a "…long term goal and staff will work with the other state agencies towards this objective." [Ordering Paragraph 6] Because the one-stop application process was not yet in place, the Board ordered "the work group will develop a process whereby potential USF recipients would also be qualified for LIHEAP and Lifeline programs, if eligible, concurrently with their application for USF."[3] [Ordering Paragraph 7]

As a result of this Order, LIHEAP and Lifeline participants were automatically screened for USF eligibility based on the household income available from the agency databases and enrolled in the USF program. At the time of the first full scale automatic enrollment in October 2003, there were approximately 80,300 Lifeline participants who had income below the 175% standard. Of those, 15,737 were already LIHEAP recipients (and screened for USF as part of that database) and so 64,570 Lifeline clients were not receiving LIHEAP were screened for USF participation. The computer matching process done by OIT found that 31,538 were eligible for USF benefits. <u>Contrary to AARP repeated requests and contrary to the clear language of the Board's Order, there has been no further screening for Lifeline participants for USF since October 2003 unless a Lifeline participant has applied for LIHEAP. Nor has there been any progress in the development of a "one-stop application."</u>

[3] It is important to note that this Board order did not require Lifeline customers to apply for LIHEAP in order to be considered for eligibility in the USF program. Rather, the express intent was to develop a single application for USF that would allow for concurrent screening for LIHEAP and Lifeline benefits.

Since the initial enrollment, there has been some natural attrition in Lifeline only customers participating in the USF program. According to the Apprise USF Evaluation Report, approximately 25,000 "Lifeline only" customers remain on the USF program. The Board has continuously allowed these Lifeline customers who were originally enrolled in USF to be "grandfathered" and to continue to receive USF benefits, but this status is now slated to end in November 2006. There has been no action to use computer screening of the Lifeline database to enroll Lifeline customers in USF since 2003. Furthermore, there has been no New Jersey government initiatives undertaken to coordinate the receipt of USF by Lifeline participants nor has there been any progress or initiatives undertaken to coordinate the receipt of LIHEAP and Lifeline benefits through a single application for subsequent USF screening and enrollment.

It is time to rectify the lack of enrollment of Lifeline only customers in the USF program. AARP proposes that all Lifeline clients whose household income (as defined in the Lifeline program rules) is at or below 175% of federal poverty be screened for participation in the USF program each fall, in the same manner as was done in October 2003. This will allow those current Lifeline "only" customers who are currently grandfathered in the USF program to be dropped in the normal course if they are no longer eligible for USF, as well as allow for enrollment in USF for those who have become eligible since October 2003. With the significant increases in energy prices since 2003, it is highly likely that many low income seniors are suffering unaffordable electric and natural gas bills and making unsafe and potentially tragic choices concerning their medications and food or other necessities to make utility bill payments.

The only other approach to resolving the issue of how to handle the Lifeline only customers has been a recommendation by the LIHEAP administrator that Lifeline customers must apply for LIHEAP or be eliminated from USF participation. While the Staff Recommendations do not specifically address how to resolve the issue of Lifeline enrollment in USF, comments and informal memorandum circulated by the Staff at the recent USF Workshops appear to support the LIHEAP administrator's views on this matter.

This approach is evidently based on the notion that LIHEAP should be the sole point of entry in the USF program and that there must be only one "rule" about household income that should the determination of USF eligibility, a position that is not reflected in the Board orders concerning eligibility USF to date. The position of the LIHEAP Administrator reflects the fact that the method of determining household income in the Lifeline program is not the same as that used by LIHEAP and his position appears to rely on the notion that the USF program should use only one means of determining household income for the purposes of determining eligibility for a USF benefit.

However, AARP respectfully disagrees with the notion that the LIHEAP method of determining household income should be the sole method by which applicants can be screened for eligibility for USF. While LIHEAP rules require the applicant to state the household income of all members of the household, it only requires one month of income information. On the other hand, the determination of income under the Lifeline program requires income documentation of the entire annual period for the senior applicant and his/her spouse. It is arguable that the documentation of annual income for the primary applicant and spouse for Lifeline is more rigorous than the one-month's documentation of income for the entire household under LIHEAP. However, it is not necessary for the Board to reach any conclusion regarding these two different program approaches because the Board should recognize that both programs have valid program participation and income rules that should be honored for the purposes of USF participation. This is particularly the case when the rates paid by utility customers reflect the costs of the Lifeline benefits program. The Board should respect the calculation of household income reflected in the Lifeline program rules that is being paid for by ratepayers through utility rates and rely on such calculations for participation in USF.

While there is some overlap between Lifeline and LIHEAP participation (and AARP welcomes outreach to Lifeline participants to urge them to apply for LIHEAP and increase this overlap), the overlap is minor and documents the long standing difficulty in obtaining low income seniors to apply for and participate in LIHEAP. The approach that is reflected in the LIHEAP administrator's (and some Staff) statements to date would result in eliminating Lifeline clients from participating in the USF program if they do not also apply for LIHEAP. This is an unacceptable result to AARP and should not be adopted by the Board. The temporary solution of allowing current Lifeline-only customers to participate in USF, but denying the right of current Lifeline customers to be screened for participation in USF as set forth in the Board's 2003 USF Order, should be resolved with a firm policy decision to allow Lifeline participants to be automatically screened on an annual basis for participation in USF.[4]

According to the Apprise USF evaluation report, 45% of the households eligible for USF in NJ are either headed by an elderly person or spouse or has a household member who is elderly (60+). However, the current USF program only serves 36% of the elderly who are eligible. Of these elderly who are enrolled, 25,203 were enrolled via the Lifeline program in October 2003 and allowed to remain on the program. If these elderly electric and natural gas utility customers are removed from USF, the participation rate among eligible elderly households would fall from 36% to 21%, less the half of the overall program participation rate (50%) for other New Jersey eligible households.

Chapter IV of the Apprise USF Evaluation Report addresses Program Accessibility for the USF program. Apprise recommends that the unification of the USF/LIHEAP database with the PAAD/Lifeline and FAMIS (food stamps/LIHEAP) databases be the top priority and states that the alignment of these systems for these three energy assistance programs "is likely to have a far greater impact on program

[4] The current "deadline" for resolving this policy issue is November 1, 2006, at which time the USF program will drop all the Lifeline only customers from USF. Obviously, AARP would agree to a temporary extension of this deadline to accommodate the implementation of a new computerized screening and enrollment for all current Lifeline participants, but our comments are intended to emphasize the importance of a policy decision by the Board this fall concerning how New Jersey's low income elderly will be allowed to participate in USF through automatic enrollment.

participation than any amount of program outreach."[5] In the Apprise survey of various USF participant groups, the Lifeline-only participants had the lowest awareness level of the USF program (30%) and indicated a very small interest in dealing with local intake agencies or welfare program offices (2% or less). Finally, almost half the Lifeline customers said that they did not know about the LIHEAP program or that they did not know how to apply. [6]

While the unification of various state low income program databases is a legitimate goal that AARP supports, three years have passed since the adoption of the Board's original USF order and its statement of the Board's "long term goal" of one-stop shopping. Unfortunately, no significant progress has been made in this direction. It is neither fair nor appropriate for New Jersey's low income elderly households to be eliminated from participation in the USF program by a refusal to conduct a new enrollment matching of the Lifeline database with the USF program eligibility formula. AARP stands ready to support any prompt effort to implement a screening for current Lifeline recipients similar to that done in October 2003. A prompt implementation of this recommendation will allow any current USF Lifeline only recipient no longer eligible for USF to be dropped from the program and allow newly eligible Lifeline recipients to be enrolled in this vital program. The alternative will put New Jersey's low income elderly households at grave risk of disconnection of essential electric and natural gas service or force such households to make unhealthy and dangerous choices concerning payment for their medications and food, all of which carry potentially fatal health consequences and fail to conform to the Board's stated purpose of USF to assure affordable energy. Low income seniors that must spend over 6% of their income for their combined electric and gas service should not have to choose between heating and eating or other unacceptable choices.

[5] Apprise Evaluation Report at 48.
[6] Apprise Evaluation Report at 57-58.

Finally, it is important to recognize that other states have not adopted the rigid rule for eligibility that is apparently espoused by the LIHEAP Administrator (and reflected in some Staff comments at the USF workshops) for ratepayer funded energy assistance programs. The Massachusetts DTE has ruled that customers who are participating in a wide variety of programs are automatically eligible for the utility low income discount program.[7] The California PUC has stated that customers enrolled in the California Food Stamps, Medicaid and other elderly drug assistance programs are automatically eligible for their state's low income discount programs.[8]

Even more unclear to AARP is why the Board would question this approach that relies on existing low income programs to determine eligibility for a bill payment assistance program since it has already approved an automatic enrollment and categorical eligibility program for Verizon-New Jersey. According to the Board's orders, Verizon customers who participate in one or more of the following programs are automatically eligible for the telecommunications Lifeline program:

1. Supplemental Security Income;
2. Temporary Assistance to Needy Families/Work First New Jersey;
3. General Assistance;

[7] "A Customer will be eligible for this rate upon verification of a Customer's eligibility for the low-income home energy assistance program, or its successor program, or verification of a Customer's receipt of any means-tested public benefit, for which eligibility does not exceed 200 percent of the federal poverty level based on a household's gross income, or other criteria approved by the Department." See: http://www.mass.gov/dte/cmr/220cmr1400.pdf In 2003 the Massachusetts DTE ordered that the utilities should implement a computerized matching process with a state database that reflects participation in a wide variety of financial or social assistance programs, many of which have different application and income eligibility requirements. The DTE has approved the entry of any of these income qualified clients in utility discount programs. Investigation by the DTE on its own motion to increase the penetration rate for discounted electric, gas,, and telephone service, D.T.E. 01-106-A (August 8, 2003), available at: http://www.mass.gov/dte/electric/01-106/88order.pdf

[8] "To assist us in reaching 100% of the low-income customers that are eligible for CARE [discount program], we adopt an automatic enrollment program that will enroll customers of PG&E, SCE, SoCal and SDG&E into CARE when they participate in the following partner agency programs: Medi-Cal and Women, Infants and Children administered through the California Department of LIHEAPlth Services (DHS), LIHEAPlthy Families administered by the Managed Risk Medical Insurance Board (MRMIB), or the Energy Assistance Programs administered by DCSD." California PUC, Order Instituting Rulemaking on the Commission's Proposed Policies and Programs Governing Low-Income Assistance Programs, Docket No. R-01-03-027, July 17, 2002.

4. Lifeline Utility Credit/Tenants Lifeline Assistance;

5. Pharmaceutical Assistance to the Aged and Disabled;

6. Food Stamp Program;

7. Home Energy Assistance Program ; and

8. Medicaid

AARP urges the Board to continue its original path of declaring that Lifeline participants should be screened for automatic entry into USF and work toward achieving its goal of a more uniform application process for all New Jersey's energy assistance programs. However, New Jersey's seniors should not be held hostage to the achievement of this goal, particularly since three years have passed without any substantial progress.

THE BOARD SHOULD ORDER THAT THE USF PROGRAM INCLUDE A LEVELIZED BILLING REQUIREMENT

The Apprise USF Evaluation Report clearly demonstrated that the actual monthly bills of USF customers do not necessarily reflect the overall intent of assuring affordability of electricity and natural gas service. This is due to the fact that while the USF benefit is calculated based on annual household income and annual estimated usage and then provided to the customer in the form of a fixed monthly bill credit, the customer's actual monthly bill reflects the seasonal swings in usage as well as the application of the LIHEAP and Lifeline benefits in one lump sum. As a result, the USF customer may face a bill of zero in some months and an unaffordable bill that significant exceeds 3% (or a combined gas and electric bill that exceeds 6%) of income for one or two utility services. This "lumpiness" in actual customer payment obligation fails to send the proper signal to the customer to pay a regular amount each month to retain service, avoid collection activities, and (assuming eligibility) earn the Fresh Start arrears forgiveness award. This result also threatens the ability of ratepayers to capture the benefits of the USF program in reduced credit and collection costs associated with affordable monthly gas and electric bills. AARP has consistently urged the Board to link the fixed monthly USF credit with a levelized monthly bill and presented such an approach at the time of the adoption of the USF. While it may be understandable that this was not a primary focus of the Board and USF Working Group's implementation attention for the first several years of the program, it is now appropriate to move forward and adopt the next stage of program reform to achieve its intended benefit.

AARP urges the Board to state that its intent and policy is to structure a levelized or budget payment plan for USF customers that reflects the customer's estimated annual usage, the receipt of applicable LIHEAP and Lifeline funds, and the application of the USF monthly credit. Such an approach will provide the USF customer with a relatively stable monthly payment obligation and make it far more likely that over the course of the program year, regular payments will be made and collection crises avoided. Our recommendation reflects the findings and recommendations of the Apprise USF Evaluation Report.[9]

The approach we recommend is reflected in the proposed formula, below:

> Participating customers will receive a flat monthly credit on their electric or natural gas bill or both utility bills. The customer is responsible for all charges in excess of the flat monthly credit. The credit amount is determined as follows:
>
> A. The percentage of income to be used when calculating the credit amount is 3% for electricity usage and 3% for natural gas usage, except that the percentage of income shall be 6% for a customer with electric heat.
>
> B. Estimated annual billing is based on the weather normalized prior year's usage for the dwelling unit and should reflect current and known residential rates for the forthcoming 12-month period.
>
> C. Annual household income x % income = participant co-payment. The annual participant co-payment shall not be less than twelve times the rate for the minimum monthly fixed charge for the applicable residential rate.
>
> D. Estimated annual bill - participant co-payment = annual credit
>
> i. The annual credit shall be reduced by any LIHEAP or Lifeline benefit the participant applies to his or her account, except for supplemental or crisis LIHEAP benefits.
>
> E. Annual credit ÷ 12 = monthly credit
>
> F. If the annual credit is calculated to be less than $60, the customer will not be enrolled in the program.

AARP recommends that the customer's enrollment in the budget or levelized payment program be automatic and presented as a feature of the USF program, but that a customer may opt out of the USF program and the levelized payment approach. The Board may also want to consider that the mandatory budget or levelized billing feature be implemented for USF customers with a benefit amount that exceeds a nominal amount so that the requirement of levelized billing is not imposed on customer whose USF monthly credit is relatively small and is unlikely to justify the costs of implementing the new billing

[9] Report at 93.

program. AARP would defer to the USF Working Group for a further discussion of the details of such an approach.

While AARP appreciates that some customers may not find the budget or levelized payment plan approach desirable and in particular have become used to the fact that their summer natural gas bills are very low, it is important to educate USF customers on the benefits of the program (reduced electricity or natural gas bill due to the monthly credit) as well as the obligations they must comply to enter and retain the program benefits, e.g., participation in no cost energy conservation programs where authorized to do so and acceptance of the monthly levelized billing program.

With respect to the implementation of budgetary or levelized billing for USF customers, AARP expects some utilities to have implementation costs and implementation time tables that may reflect a phase-in of this approach over the next program year. However, it is important for the Board to establish the general objective of the implementation of this program change as soon as possible.

THE BOARD SHOULD ORDER THE UTILITIES TO COLLECT AND PROVIDE AND NECESSARY DATA TO PERFORM A PROPER "NET COST" ANALYSIS

The Board's original USF Order issued in 2003 and subsequent orders clearly required that the USF program be evaluated based on a variety of credit and collection criteria to determine the impact of the program on USF customer ability to pay and maintain energy services and to compare the results of the USF customers with residential customer credit and collection experiences as a whole. While the Apprise Evaluation Report is generally acceptable overall, the most significant defect is the failure to provide appropriate or detailed information to determine the "net" costs of the USF program. Chapter VIII, Utility Program Impacts, does not clearly identify the lack of data that would allow a more complete analysis, but based on the statements in this Chapter and the comments provided in the USF Working Group workshops after the issuance of the Report, Apprise was unable to obtain a database from all the utilities that would allow a comparison in payment and collection activities by USF participants both pre-USF enrollment and post-USF enrollment or allow the comparison of USF participants with credit and collection experiences for residential customers generally.

The Report identifies the most logical approach—compare the number of collection actions for USF program participants in the year prior to USF enrollment with the year after enrollment—but rejects this approach for "both conceptual and technical barriers." The Report then focuses on a comparison of the arrearage status for USF participants in the year prior to enrollment with the year after enrollment. At no point in this Report does Apprise provide comparative information on such "obvious" data points as percent of bill paid; disconnection notices issued; payment arrangements entered and kept; premise visits; actual disconnection of service; and level of overdue balance, or any of the other criteria for evaluation set forth in Ordering Paragraph #18 in the Board's March 2003 USF Order. As a result, the Report focus on payment compliance (USF improved payment compliance), arrearage status (USF had minor but noticeable improvement), and arrearage threshold (USF was effective in eliminating arrears balances at any point during the collection period for 5-10% of electric customers and 6-9% of gas customers).

In looking at utility collections data, the Report focuses on disconnection notices and field visits, but not for USF customers pre and post enrollment, but rather for all residential customers. The analysis of Net Write Offs is also presented for the entire customer base and not for USF customers. As a result, contrary to the Board's orders and the expectations of the USF Working Group, this Evaluation Report cannot provide any useful information on the comparison of USF customers with residential customers generally in key indicia of program success and cost effectiveness.

The Report identifies Utility program costs at $785-$795 per USF customer, with USF credits at $600/participant, Fresh Start credits at about $175/customer and utility administrative costs between $10-$20/participant. Apprise identifies approximately $1.2 million/year in incremental utility administrative costs. Apprise then purports to identify the "program offsets" or "avoided costs." In all the categories identified (collection costs, working capital costs, customer service costs, regulatory costs, and write offs), there is no identification of actual impact based on USF customer participation in the program, i.e., the so-called "top down" analysis that is used in Pennsylvania and other states. Rather, what the Apprise report does is provide the gross system-wide utility costs and then try to figure out what portion of these system-wide costs might be related to USF customers. The result is an estimate of a potential impact range of $200,000 to $1.1 million, which is about equal to the utility's incremental administrative costs. Since these incremental costs have never been included in the USF cost recovery mechanism (part of the SBC) in any case, the result is that the Report fails to identify any reduction in utility costs or offsets to the costs of the USF program.

AARP recommends that the Board find that the Apprise Evaluation Report could not provide the intended evaluation of costs and benefits of the USF program due to the failure of the utilities to provide the necessary historical data for USF participants. AARP offers no comments on what actions the Board may wish to explore with respect to the failure of the largest electric and gas utilities to provide this data when the Board's orders had clearly contemplated the existence and provision of such data in designing the data collection protocols and evaluation process itself. However, AARP does recommend that the Board order the utilities to immediately undertake the necessary steps to collect the appropriate data and provide it next year for the required evaluation process.

THE BOARD SHOULD NOT ELIMINATE THE FRESH START PROGRAM, BUT SHOULD ASK THE USF WORKING GROUP TO CONSIDER POSSIBLE CHANGES TO THE CURRENT ARREARS FORGIVENESS PROGRAM TO REDUCE ITS COSTS

The Staff Recommendations seek to eliminate the Fresh Start program. AARP disagrees with this approach. The Fresh Start program was a consensus recommendation of the USF Working Group after the Board ordered the Working Group to devise such a program. At the time of the design of the Fresh Start program, several utilities indicated that they were unable to make the necessary changes to their billing systems to allow them to keep track of a separate payment plan for USF customer arrears, such as the traditional utility arrears forgiveness program in which the customer is asked to make a monthly payment of a relatively modest amount in return for a utility forgiveness of a portion of the arrears over a period of time. Rather, the utilities at that time supported the relatively generous program design that was in fact proposed and approved by the Board in which the USF customer was asked to make 12 regular monthly bill payments over a 15 month period without regard to the arrears balance and then receive forgiveness of the full amount of the arrears in a lump sum award at the end of 15 months.

The program approved by the Board resulted in a fairly expensive addition to the USF program during its first year. However, that expense is mostly likely a reflection of the first time participation in USF and Fresh Start by the initial enrollment phase of the program in 2003 and 2004. Many of these new program participants carried with them a significant arrears balance. Since the Fresh Start arrears forgiveness program is a one-time event (i.e., does not apply to future arrears balances incurred by USF customers in future program years), it is unlikely that the costs of this aspect of the program will reach the historical level. Based on the utility filings for the forthcoming program year, it appears that a reasonable estimate of the cost of the Fresh Start program going forward is $6 million (and not the $12 million proposed by the utility filing).

However, if the Board is determined to review the program design of Fresh Start, it should ask the Working Group to review and make recommendations concerning this program on a going forward basis. AARP recommends that the Board not eliminate this feature of the energy affordability program because it is likely that USF customers will continue to fail to make regular monthly payments and retain their essential electricity and natural gas service without some attention to arrears balances brought into the program. Furthermore, most other state universal service or affordability programs include an arrears forgiveness feature.

THE BOARD SHOULD ELIMINATE OR SIGNIFICANTLY INCREASE THE $1800 CAP ON USF BENEFITS

The Board's 2003 Order establishing the USF program stated that USF benefits should be capped at $1800. This order appears to be a misunderstanding of the Staff Recommendation for a Permanent USF Program that was the basis for the Board's USF Order. The Staff had recommended that the "energy burden" be capped at $1800 for the purposes of calculating USF benefits and not the USF benefit itself. Nonetheless, the Board's decision to impose an $1800 cap on total USF benefits has been implemented as ordered. This program design feature should be eliminated.

The USF Program Evaluation has documented that many USF participants have unaffordable monthly bills, in part due to the fact that those USF participants impacted by the $1800 cap rule must pay the additional monthly bill amount even if it results in an energy burden in excess of the 6% combined electric/gas factor. This program rule affects a significant percentage of USF participants. Based on those enrolled as of 2005, 8.7% of LIHEAP-based enrollees were impacted and 5.7% of Lifeline-based enrollees (based on October 2003 enrollment) by the $1800 benefit cap. As a result, the Board's directive has had a more significant impact than perhaps it assumed when the program rule was adopted.

Furthermore, natural gas and electricity prices have increased substantially since the Board adopted the $1800 cap and its impact is likely to be even more painful now.

AARP recommends that the Board consider the elimination of this program rule. It has the harshest impact on those with the lowest income and highest energy use. While AARP agrees that such customers should be required to participate in all available no cost energy efficiency and weatherization programs, it is not likely that those programs are sufficiently funded to accommodate the necessary caseload immediately. There is no basis for the conclusion that this program rule has operated to stimulate reduced energy usage or that USF customers are generally profligate in their electricity and natural gas usage. Rather, their usage profiles reflect the age and structure of their dwellings and their income constrained ability to make additional investments in energy conservation without assistance.

AARP COMMENTS CONCERNING OTHER STAFF RECOMMENDATIONS

1. Type of Program: The Staff Recommendations state that USF should be a "limited, annual energy assistance credit, not a social service benefit designed to solve all of a household's needs for financial assistance that pertain to energy usage." The program should operate generally "as is" for the 2006/2007 program year, but the Board should affirm that in the future that the benefit be calculated and given for a fixed period of time based on fixed annual funding. The Fresh Start program should be phased out. Funding should be set annually and the benefit should be calculated for the period of time that the funding is available.

AARP Response: While AARP acknowledges that the Board has the authority to establish the funding level for USF, the nature of the Staff Recommendation is vague and fails to discuss what level of funding might be recommended or what criteria would govern a funding level decision from year to year. AARP recommends that the Board require the Program Administrator, in consultation with the USF Working Group, to submit a proposed program budget for a two-year period. This funding level should be the subject of a Board Order (and an evidentiary hearing if there is a lack of consensus concerning the recommended budget for the two-year period). With regard to the proposal to eliminate the Fresh Start program, AARP recommends that the Board reject that recommendation. Instead, as discussed further in these Comments, AARP recommends that the Board request the USF Working Group to consider the design of the Fresh Start program and submit recommendations that would meet the Board's concerns. Furthermore, a review of the last six months of spending for the Fresh Start program indicates that the proposed annual spending level for this aspect of the USF program is far less than the first year's expenditures when the first time participants in USF brought large arrears balances into the program. All future USF participants who were previously enrolled in the program will not be eligible for Fresh Start.

2. <u>Communications:</u> The Staff recommended that the Board hire an experienced communications firm to "increase awareness of the USF program" and develop a "centralized, coordinated communications message for the 2007/2008 program year." The Board should direct Staff to propose a "one-stop shopping" approach to energy assistance benefits, which would include the Apprise recommendation about consolidating the energy assistance databases and linking USF eligibility with participation in Comfort Partners and other no-cost energy conservation programs.

<u>AARP Response</u>: Certainly we would agree with streamlining the application process and support the Apprise recommendations concerning consolidation of the databases and the access to Comfort Partners—a long overdue reform. The Board's original USF Order in 2003 required that USF participants be referred to Comfort Partners and the failure to focus on assuring that USF participants with the highest USF monthly credits receive prompt Comfort Partners weatherization or other energy efficiency services should be corrected promptly. The recommendation concerning "one stop" shopping for energy benefits is a laudable objective. However, the Board does not have jurisdiction over other the program rules for other energy programs, including LIHEAP and Lifeline, as well as other financial assistance programs for low income New Jerseyans. The Board's efforts to stream line the application process for these various programs cannot be accomplished by Board Order, but rather through working with the Governor, the Legislature, and other agency directors in a collaborative manner. With respect to hiring a communications consultant and conducting a statewide "awareness" campaign, AARP objects to designing and implementing an expensive outreach campaign for USF without a careful consideration of the value of such an effort in light of the Board's express concerns about the budget for the USF program and potential increase in USF spending. Rather, AARP recommends that the Board's communication efforts focus on the education of the USF participants about the nature of the program and the benefits of participating in Comfort Partners and the Fresh Start payment program.

3. Intended Beneficiaries: The Staff recommends the use targeted communications and increased program education efforts to reach under served populations "in their communities, rather than make substantial program changes to reach these groups." The Staff also discusses the need for greater oversight of the CAP agency network in their primary role in the USF application process.

AARP Response: It is not clear what is meant by not making "substantial program changes to reach these groups." The Staff's recommendations fail to discuss, for example, the integration of the Lifeline program which is targeted to low income seniors into the USF program. AARP recommends that the Lifeline program be the primary focus of assuring the participation of "intended beneficiaries" in the USF program.

4. Program Management: The Staff recommends that USF should be streamlined "to provide more centralized control and clear delegation by the Board through direct contracts with service providers." Before increasing administrative funding (as recommended by Apprise), the Staff recommends that the Board should require a State Audit and "reconciliation of accounts of existing service providers…"

AARP Response: AARP supports the effort for the Board to have more detailed Memorandums of Understanding with the Program Administrator and the CAP agency network.

5. Fiscal Accountability: DHS should be required to submit a budget that allocates sums between DHS and DCA, which the Board approves each year. The Board should conduct program audits. These audits should be conducted of utility, DHS,DCA/OIT/CAP agencies by the Office of the State Auditor.

AARP Response: AARP agrees with this recommendation.

6. Program Effectiveness: The Staff states that there are no written program goals or measures by which the assess the baseline for what constitutes reasonable costs and the level of service to be provided for the costs incurred or criteria to determine if the USF program is "successful" or effective. The Staff

recommends that the Board establish "concrete performance measures for the Program, as well as specified annual goals, so it has a benchmark by which to assess the achievement of those goals."

AARP Response: The USF Working Group has discussed a wide range of program measurements and criteria for evaluation of a successful program in the most recent Workshops. AARP does not disagree with this effort or the work product to date. However, the overall purpose of the USF program is clear and was already stated in the Board's original USF Order: "…a USF should ensure that low-income customers have access to affordable energy." [Order at 3] Any future decision about funding level and program design features should reflect this overall objective and consider program changes and funding levels from this perspective.

7. Regulatory Oversight and Information Management: A centralized data management system for USF should be created and all reports from utilities and DHS should be streamlined and more clearly coordinated. The Staff should provide brief monthly reports to the Board on the status of the USF program.

AARP Response: AARP agrees with these recommendations.

8. Transition Year recommendations:

Education: Must develop a simple and understandable USF message to USF applicants and participants this year.

Technological Priorities and Planning: Integrate databases and better coordinate reporting to better deliver one-stop shopping energy assistance benefits.

Completion of Existing Applications: Focus on incomplete applications and role of CAP agencies.

AARP Response: While AARP does not oppose these recommendations for the coming program year, we respectfully suggest that the primary focal point in the near term should be to implement an automatic screening and enrollment of Lifeline customers into the USF program.

CONCLUSION

At the time of the creation of the USF program in 2003 the Board authorized the creation of a USF Working Group[10] and gave this group a number of important implementation tasks, all of which were subject to Board final decision or order: (1) coordination of the various community assistance programs and the USF administrator to achieve the one-stop application process (described as a "long term goal"); (2) development of a process "whereby potential USF recipients would also be qualified for LIHEAP and Lifeline programs, if eligible, concurrently with their application for USF"; (3) assisting in the development and implementation of the automatic enrollment process between utilities and the Department of Human Services; (4) determination of the feasibility and design of an arrears forgiveness program as part of USF; (5) determination and recommendation of data reporting and review mechanisms that will be able to compare USF participants and residential customers generally with regard to disconnection for nonpayment, experience with deferred payment arrangements, and arrears balances as a function of the average monthly bill; and (6) issues relating to portability of USF benefits, multi-party billing and the interaction of USF billings with third party suppliers.

Since its inception in 2003, the Working Group has met regularly and provided recommendations and input for the many Board implementation decisions concerning the USF program that have been issued since 2003. Unfortunately, the USF Evaluation Report provided to the Board at its June 7, 2006 Meeting was not discussed with or provided to the Working Group in draft form prior to its release by the Board. Nor were the Staff Straw Recommendations discussed with or reviewed by the USF Working Group prior to their presentation to the Board at its June 7th meeting.

As a result, AARP and other participants in the USF Working Group have not participated in the formulation of the recommendations or findings of the Evaluation Report or the Staff Recommendations.

[10] The Board's Order establishing the Universal Service Fund as a permanent program was deliberated at the March 20, 2003 Board meeting and issued on April 30, 2003. The delegation of tasks to the Working Group is a summary of the Board's Ordering Paragraphs 6, 7, 14, 16, 18, and 24.

AARP and other long time participants and supporters of the USF program (and whose testimony concerning design and implementation was adopted by the Board in its original USF orders in 2003) now find ourselves in the posture of proposing changes to a Report that is labeled “final” and opposing or seeking alternative approaches to the Staff Recommendations after the Board has participated in the formulation and approval for publication of those recommendations. Most importantly, the Board’s approach to this proceeding has eliminated the option of formulating consensus recommendations for immediate and longer term program changes and, where consensus is not possible, allowing for the full exploration of alternative approaches.

Nonetheless, AARP has participated fully in the two USF workshops held after the issuance of the Staff Recommendations and remains committed to supporting the New Jersey USF program and the USF Working Group, as well as any other rulemaking or other proceedings that may flow from the Evaluation Report and future regulatory proceedings.